

REMARKS

The present invention provides 1-aryl- or 1-alkylsulfonyl-heterocyclylbenzazole compounds of formula I, and the therapeutic use thereof for the treatment of CNS disorders related to or affected by the 5-hydroxytryptamine-6 receptor.

Claims 1-20 are pending in this application. Claims 9-13 have been withdrawn.

Claims 1, 7, 14 and 20 have been amended. Claims 2 and 15 have been cancelled.

Examiner has made the restriction requirement final.

Applicants have amended claims 1, 7, 14 and 20 to exclude the non-elected subject matter. Applicants reserve the right to file a divisional application directed toward the non-elected subject matter. Claims 2 and 15 have been cancelled to avoid redundancy. Withdrawn claims 9-13 have not been cancelled to allow Examiner opportunity for rejoinder.

Claims 1, 14 and 20 are objected to for the incorrect designation of carbon atoms in the definition of variable R_1 .

Claims 1, 14 and 20 have been amended to correct the inadvertent typographical error in the number of carbon atoms in the terms " C_2-C_6 alkenyl" and " C_2-C_6 alkynyl" in the definition of the variable R_1 . Applicants thank Examiner for pointing out the error. In view of the amendment, Applicants believe Examiner's objection to claims 1, 14 and 20 has been overcome.

Claims 8 and 19 have been objected to as being dependent upon a rejected base claim.

Applicants have amended claims 1 and 14 to exclude the non-elected subject matter and to correct the definition of R_1 , per Examiner's suggestion. In view of these amendments, Applicant's believe Examiner's objection to dependent claims 8 and 19 has been overcome.

Claims 1-7, 14-18 and 20 have been rejected under 35 § USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner contends the phrase "optionally substituted" is indefinite and that in the absence of the specific moieties intended to effectuate modification by the "substitution", the term "substituted" renders the claims indefinite.

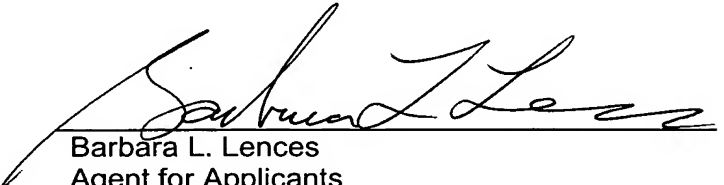
Applicants respectfully traverse the rejection. The phrase "optionally substituted" is defined in the Detailed Description of the amended specification on page 6, lines 11-32. The definition of "optionally substituted" in the amended specification clearly delineates what specific groups or moieties are intended by optional substituents, how many groups may be present when a variable is optionally substituted, and the number and nature of the carbon atoms when the optional substituent contains an alkyl group. "The test for definiteness under 35 U.S.C. § 112, second paragraph is whether 'those skilled in the art would understand what is claimed when the claim is read in light of the specification'." *MPEP § 2173.02* Applicants submit that one skilled in the art of small molecule pharmaceuticals would clearly understand the term

"optionally substituted" as used in the instant claims, in view of the specification and in view of the existing patent literature. "When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning, in order to achieve a complete explanation of the applicant's invention and its relation to the prior art." MPEP § 2173.05(a)

In conclusion, Applicants believe that Examiner's rejection under 35 § USC 112, second paragraph, has been overcome in view of the foregoing and in view of the amendments as shown hereinabove. Applicants respectfully request Examiner to enter the above amendments, consider the above remarks, withdraw the objections and rejection and allow the application.

Favorable treatment of the application is earnestly solicited.

Respectfully submitted,



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